

Date: August 3, 2016

To: Mayor and Members of City Council
From: Harry Black, City Manager
Subject: VANDALIA STREET ACCESS

Reference Document #201600961

The Council at its session on June 28, 2016 referred the following item for review and report.

COMMUNICATION, dated 06/27/2016 submitted by Vice Mayor Mann from Stefanie Sunderland, concerning the motion to provide access for Vandalia Residents.

The situation referenced in Ms. Sunderland's letter of June 27, 2016 presents an unusual set of circumstances. In Northside, there are a number of "landlocked" homes that front onto the former Baltimore & Ohio Railroad (B&O RR) right of way that was historically referred to as "Vandalia Avenue." In addition to carrying the rail line, this right of way functioned as access to these homes for many years, even after the rail line was removed and the parcel paved for parking. Although these residents have received City services over the years, this property is not, nor has it ever been, an official public street. (Vandalia is dedicated as public right of way in other sections of Northside.)

This arrangement worked without issue for many years. But the parcel was recently sold between two independent parties, and the new owner has indicated that he intends to eliminate or impose fees and new rules to park on the parcel or to access these homes by car across the parcel. The Law Department believes that each landlocked property has a pedestrian easement that provides access to the property, but the easement apparently does not extend to vehicular traffic or vehicular parking.

Representatives of the Department of Transportation and Engineering (DOTE) and Law Department have met with one of the landlocked owners and leaders of the Northside community to discuss possible solutions. DOTE and the Law Department has reiterated to the owners and their legal representatives, however, that this appears to be a private property dispute and that the City's lawyers cannot represent them in their efforts. DOTE and the Law Department nonetheless identified two possible avenues for City involvement.

First, attorneys for one of the landlocked owners recently supplied the Law Department with a 1970s zoning decision (a conditional certificate of occupancy) that conditions approval of the parking lot on continued access across the property to two unspecified residences. The City could seek to enforce this condition, but the area is no longer being used as a parking lot. As a result, attempts to revoke the permission for parking lot use may not lead to any desired outcomes.

Second, it appears that the new owner of the B&O RR right of way has plans to develop the property. The landlocked owners and Northside leadership produced a set of potential development options that would preserve access while allowing development. The new B&O RR right of way owner's proposed redevelopment would likely require a number of City approvals that, if appropriate, may be conditioned on providing vehicular access to the landlocked owners. There may also be opportunities to incentivize continued vehicular access should the new development require gap financing or subsidy.

Conclusion

This situation is primarily a dispute between private parties related to their private property rights, and there is not an obvious role for the City to play in resolving that dispute. Each landlocked property appears to have a pedestrian easement through other properties that provides access to their houses, and it is possible that they may have other access rights in law or equity. But it is the responsibility of the various property owners to make and defend their access claims and that may require them to take legal action.

DOTe and the Law Department recognize the uniqueness and complexities of this situation, and they will continue to work with Northside community leaders and the owners of these landlocked properties, within the reasonable bounds of their duties and responsibilities, to help find a workable arrangement for all parties involved.

cc: Michael R. Moore, Director, Transportation and Engineering